IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR

J U D G M E N T

SOMVEER @SOONVER JAT VS. STATE OF RAJASTHAN.

S.B.CRIMINAL JAIL APPEAL NO.92/2005
Section 374(2) Cr.P.C. against the Judgment dated 3.8.2004 in Sessions case No.272/2003) passed by Sh. C.M.Totla,RHJS, Special Judge N.D.PS.Cases, Udaipur.

DATE OF JUDGMENT : May 10th , 2007.

P R E S E N T

HON'BLE MR.JUSTICE CHATRA RAM JAT

Mr.Rajesh Bhati, Amicus Curaie, for the appellant.
Mr.JPS Choudhary,Public .Prosecutor

BY THE COURT:

1. This appeal is directed against the judgment and order dated 3.8.2004 passed by the Special Judge N.D.P.S.cases, Udaipur , whereby the learned Judge by the judgment convicted the accused appellant under Section 18-A NDPS Act,1985,and sentenced for six months rigorous imprisonment and fine of Rs.1250/-. For offence 21-A of the NDPS Act,1985, he sentenced six months and a fine of Rs.1250/-.

2. Both the sentences ordered to run concurrently and in default of payment of fine to further under go one months additional rigorous imprisonment on each count.

3. The brief facts of this appeal which are necessary to dispose of this appeal, in nut shell, are that on 5.11.03 accused appellant was transferred Somveer from Bharatpur Jail to Udaipur Jail,at that time at about 10.40 O'clock Chief Warden Panna Lal and Warden Dulesingh searched then from the under wear a pouch containing 1 gms brown sugar and 1 gms opium was recovered. Thereafter, it was informed to Chetan Dev, Superintendent Jail,who informed on telephone to Police station, Soorjpole

which was registered in Rojnamcha No.309 dated 5.11.03. On this information Ex.P14 report was registered. After necessary enquiry, F.I.R.No 334/04 P.S. Surajpole, Udaipur was registered for offence under Sections 18-A and 21-A of the NDPS Act,1985.

4. After necessary investigation and memos , challan was filed before the Special Judge, NDPS Act cases, Court, Udaipur, who framed charge under Section 8/21,18 and 27 of the NDPS Act,1985. Charges were read-over and explained to accuse who denied the same and claimed for trial.

5. Prosecution produced P.W. 1 to P.W.13 and in defence no witness was produced.

6. In statement under Section 313 Cr.P.C accused stated that he is innocent and has been falsely implicated in this case. No witness in defence was, however, examined. On hearing final submissions learned trial Judge convicted and sentenced the appellant as indicated herein above so this appeal.

7. Heard the submissions of learned counsel for the appellant as well as learned Public Prosecutor and gone through the record of the case.

8. Learned counsel for the appellant states that appellant has been convicted for the offence under Section 18-A and 21-A of the NDPS Act and punished for six months RI along with fine of Rs.1250/- on each count and in default one months RI but he is not contesting the appeal on merit so the conviction may be confirmed. Learned counsel for the appellant further states that appellant remained in custody from 12.11.03. to till today and thus in all he has remained in custody for a period of more than three years and five months so the appeal may be disposed of immediately.

8. Although learned counsel for the appellant is not pressing the appeal on merit and after going through the evidence produced by the prosecution it is clear that Deepak P.W.2; Daulat P.W. 3; Shanker Lal P.W.4 and Teja Ram P.W.6 and Shanker Lal Ojha P.W. 5 the recovery of 1gm 50 Mg brown sugar and 1 Gms opium was made from the conscious possession of the appellant

and thus looking to the evidence produced by the prosecution and not challenging the conviction by learned counsel for the the conviction and sentence deserve to be upheld and no interference in the judgment of the learned trial court is called for.

9. Having analysed the evidence of prosecution from the point of view of trustworthiness , I find the evidence reliable and trustworthy and I am of the considered opinion that the charges 18-A and 21-A of the NDPS Act,1985, are established against the appellant beyond reasonable doubt.

11. I do not see any infirmity in the impugned judgment of the learned trial Court.

12. For the reasons mentioned here-in-above, I find no merit in the instant appeal and the same stands dismissed.

(**CHATRA RAM JAT)J.**

CKThanvi